

Permitting & Assistance Branch Staff Report  
Solid Waste Facilities Permit Modification for the Z-Best Composting Facility  
SWIS No. 43-AA-0015  
February 1, 2011

**Background Information, Analysis, and Findings:**

This report was developed in response to the Santa Clara County Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery's (Department) concurrence on the issuance of a proposed Solid Waste Facilities Permit modification for the Z-Best Composting Facility, SWIS No. 43-AA-0015, located in Santa Clara County, owned and operated by Zanker Road Resource Management, Limited. A copy of the proposed permit is attached. This report contains the Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was received on December 7, 2010. Action must be taken on this proposed permit no later than February 5, 2011. If no action is taken by February 5, 2011, the Department will be deemed to have concurred with the issuance of the proposed modified permit.

**Proposed Changes**

The following changes to the permit are being proposed:

	Current Permit (1999 SWFP)	Proposed Permit
5 (a) Permitted Operations	Composting Facility	Composting Facility Transfer/ Processing Facility
3. Owner/Operator Address	Zanker Road Resource Management, Limited 625 Charles Street San Jose, CA 95112	Zanker Road Resource Management, Limited 1500 Berger Drive San Jose, CA 95112
12. Legal description of Facility	APN# 841-37-0022 and 0023	APN# 841-37-028 and 029
15. Documents	Report of Composting Site Information October 1999  Contains Composting operating standards	Report of Composting Site Information October 2010  Includes Transfer Processing and Composting operating standards

**Findings:**

Staff recommends concurrence with the issuance of the proposed modified Solid Waste Facilities Permit. All of the required submittals and findings required by Title 27, Section 21685 have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. Permitting and Assistance Branch staff's findings are summarized in table below. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained in the facility files maintained by the Permits and Certification Division.

CCR Title 27 Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated November 30, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	The LEA completed a Five Year Permit Review on August 30, 2010, and provided a copy to the Department on September 16, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facilities Permit	The LEA submitted a proposed solid waste facilities permit on December 7, 2010.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on December 7, 2010, provided a finding that the facility is consistent with PRC 50001 and Waste Evaluation & Enforcement Branch (WEEB) in the Jurisdiction Product & Compliance Unit found the facility is identified in the Nondisposal Facility Element and with the Countywide Integrated Waste Management Plan, as described in the memorandum dated January 26, 2011.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on January 12, 2011. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on December 7, 2010, that the proposed permit is consistent with and supported by the existing CEQA documentation. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and or Meeting, Comments	The LEA posted the public notice dated November 5, 2010, regarding the proposed modified permit. Two written comments were received by the LEA and no comments were received by Department staff.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	Permit and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed modified permit. See details below.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

### **Compliance History:**

The facility was inspected by WEEB staff in the Inspections and Enforcement Agency Compliance Unit on January 12, 2011. No violations were noted.

Below are the details of the facility's compliance history based on the LEA's monthly inspection reports during the last five years.

In 2005, the LEA documented one State Minimum Standards violation for 14 CCR Section 17867 (a) (2) - Litter, Litter was observed on both sides of Hwy 25 near the facility entrance and off the eastern permitted boundary. The operator has implemented a detailed cleaning program for inside the processing building that includes the following procedures: air pressure cleaning of equipment, trucks, walls and ceiling in the winter/wet months, and water pressure cleaning in summer/dry months.

In 2007, the LEA cited one State Minimum Standard violation for Title 14 CCR Section 17863- Report of Composting Site Information, for not keeping up with the RCSI's requirement of cleaning the processing building five times per week. Corrective action was taken and the site is in compliance. The LEA also cited one State Minimum Standard violation for Title 14 CCR Section 17866 - General Design, for lack of sufficient drainage around the material screening area. Inert fill material was used to correct the deficiencies in the drainage system.

In 2010, the LEA cited one State Minimum Standard violation for Title 14 CCR Section 17868.1 - Sampling Requirements. The number of samples collected in the past 6 months for the finished MSW compost product did not reflect the required frequency of testing considering the volume of material that was shipped off-site. Only four sample testing results were documented instead of the required five. Subsequently, the operator revised their reports and currently is being more careful with sampling each type of product pile every 5,000 cubic yards and obtaining results prior to product shipping.

#### **Environmental Analysis:**

Under the requirements of the California Environmental Quality Act (CEQA), the Department must consider the environmental document(s) (EDs) prepared by the lead agency that analyze for potentially significant impacts that would occur if the proposed project were to be implemented. Public Resources Code Section 21002.1(b) states that “[e]ach public agency shall mitigate or avoid the significant effects on the environment of projects that it carries out or approves whenever it is feasible to do so.” Upon consideration in the concurrence of the issuance of revised Solid Waste Facilities Permit No. 43-AA-0015, the Department must evaluate the EDs for CEQA compliance before the Department can concur in its issuance.

Two EDs were prepared and circulated by the Santa Clara County Department of Planning and Development, acting as lead agency, for the site:

- 1) A Mitigated Negative Declaration (MND), State Clearinghouse (SCH) No. 1999072048, was circulated for a 30-day review period from July 12, 1999, through August 11, 1999. The MND described and analyzed for the construction of a 20,000 square foot operations and processing building for the Z-Best Composting Facility. The MND also analyzed for the processing of municipal solid waste (MSW) within the transfer/processing building. The MND was adopted by the County of Santa Clara Planning Commission on September 9, 1999. A Notice of Determination (NOD) was filed with the SCH on November 17, 1999. An appeal was filed by San Benito County and the matter was heard by the Santa Clara County Board of Supervisors who then reaffirmed the action of the Planning Commission on February 15, 2000. A second NOD was filed with the SCH on May 5, 2000, describing the composting feedstock and transfer processing methods and approved the project.

- 2) A Mitigated Negative Declaration (MND) and Addendum, State Clearinghouse (SCH) No. 1999072048, was circulated for a 30-day review period from June 12, 2006, through July 11, 2006. The MND described and analyzed for the 10,000 square foot expansion of the operations and processing building for the Z-Best Composting Facility operations and an increase in the processing of non-source-separated municipal solid waste with an increase in residual waste of approximately 20 percent. The MND was adopted by the County of Santa Clara Planning Commission and the project was approved on September 7, 2006. There is no record of an NOD being filed with the SCH for this MND.

The project is for the issuance of a modified full Solid Waste Facilities Permit by the Santa Clara County Department of Environmental Health, the Local Enforcement Agency (LEA), which will include operating and design conditions for the existing transfer processing activities in an existing building. The LEA has made a determination that these environmental documents “as a whole comprise the CEQA project description and support for the proposed project/facility.”

Department staff finds that the MNDs address the project under consideration and that there is no potential for significant impact(s) that will result upon the issuance of full Solid Waste Facilities Permit 43-AA-0015. Department staff further recommends the 1999 and 2006 MNDs are adequate for the Department's environmental evaluation of the proposed project for those project activities which are within the Department's expertise and authority, or which are required to be carried out or approved by the Department. There are no grounds under CEQA for the Department to prepare a subsequent or supplemental ED or assume the role of lead agency for its consideration of the proposed Solid Waste Facilities Permit.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA (including the MNDs adopted by the lead agency), the proposed Solid Waste Facilities Permit and all of its components and supporting documentation, this staff report, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed Solid Waste Facilities Permit. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

**Local Issues:**

The project document availability, hearings, and associated meetings were extensively noticed consistent with the SWFP requirements. A review from the public process indicates that environmental justice issues were not identified by the surrounding community. According to the 2000 census, the population of Census Tract 5124.02 indicates that the surrounding population is approximately 88.3% white, 0.6% black or African American, 7.3% Asian and 3.8% some other race. 31.1% of the total population in Census Tract 5124.02 identify themselves as Hispanic or Latino. 8% of the families in the Census Tract were below the poverty level. Staff has not identified any environmental justice issues related to this item. Staff finds the project and permit process to be consistent with Government Code Section 65040.12, as there has been fair treatment of people of all races, cultures, and incomes with respect to the proposed action being recommended above.

**Public Comments:**

The LEA received two written comments from the posted public notice, no oral comments were received. One comment was received via e-mail and was from the Board of Supervisors office asking about the details of the project. The LEA responded via e-mail to the office of Supervisor Donald F. Gage with the details of the proposed changes to the Solid Waste Facilities Permit as well as a brief history on the site. The second inquiry was from an attorney representing a client who lives adjacent to a property where a large shipment of finished compost was delivered by Z-Best Composting Facility. After reviewing the aforementioned inquiry, which proposed additional reporting and tracking conditions be added to the permit for all finished products from the Z-Best Composting Facility, the Santa Clara County LEA determined that this request was outside the Santa Clara County LEA authority. The Santa Clara County LEA responded to the attorney and referred all subsequent questions regarding this issue to the San Benito County LEA's office which has jurisdiction over the property in question.

Department staff has not received any oral or written public comments.

**Department Staff Actions:**

Staff responded to questions from the LEA regarding the permit process. The Department provided an opportunity for public comment during the Monthly Public Meeting on January 19, 2011.